

SPECIAL COUNCIL MEETING

DECEMBER 19, 2012

The Special Meeting of the Council of the County of Kaua'i, was called to order by the Council Chair at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, December 19, 2012 at 8:52 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Council Chair

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Ms. Yukimura, and unanimously carried.

INTERVIEW:

BOARD OF WATER SUPPLY:

- **Sherman T. Shiraishi** – Term ending 12/31/2015

Chair Furfaro: Good Morning. Thank you very much for being here and stepping forward. Sherman, may I ask you to give us a little of your background, as well as some of the work that you have done at the County level for other Boards and Commissions?

SHERMAN T. SHIRAISHI: Good morning. I am also a product of the public schools. I graduated from Waimea High School and Sean Doi is a tough act to follow. I have been in private law practice since 1979, thirty-two (32) years. I have also served on the Charter Review Commission two (2) terms, six (6) years and I was Chairman for three (3) of those years. I am familiar with the Charter. I have also done work with various Boards and Commissions in the County, including the Water Department. I recognize that it is a privilege to serve on the Board and it is also a duty that us guys in private industry should offer our services when asked.

Chair Furfaro: Thank you very much. Members, questions? I will open the floor for any questions.

Ms. Yukimura: Thank you so much for your service. I was not tracking and I did not realize you had gone off the Charter Commission.

Mr. Shiraishi: Right. I served two (2) terms, so six (6) years.

Ms. Yukimura: Right. We will miss you on that Charter Commission because you are so informed and have such a perspective on the operations of the County. But I am glad to see that you are stepping forward for the Water Board which is a very, very important Board in the County. I just wondered whether you have had a chance to – well, you have been on it before, is it?

Mr. Shiraishi: No, I have never been on the Water Board before.

Ms. Yukimura: Okay. I wondered if you have a chance to think what the issues might be before the Water Board, the key issues?

Mr. Shiraishi: Well, I have not discussed any of the issues with any of the Board of Water personnel, nor with the current board members. The issues as I see it just being as a private citizen is the rates, the current state of the infrastructure, and the need to maintain it. There is a conflict between water rates that we charge the public and the need to maintain and improve the infrastructure. I see in Honolulu, where weekly they have water line breaks and all of that. So we need improvements. But on the other hand, we are going to have to possibly raise rates to the public. So I see that as a conflict and I need to balance that. I do not know what the rates are, in my household, I do not pay the bills, my wife pays the bills. So I do not know what I pay for water to tell you the truth.

Ms. Yukimura: Well, I think you have hit on the key issues before the Water Department. We actually have a lot of breaks ourselves. I think the people in Kekaha will tell you. It seems like it is weekly that pipes break there. I know that under the leadership of Carol Souzawa and Ernie Lau, they developed a plan for replacement of aging infrastructure. But it did come at a cost and as you mentioned, that is the tension and the issues of the Water Department. Long range though, if you do not do preventative maintenance and timely replacement, the costs are bigger at the end.

Mr. Shiraishi: I agree.

Ms. Yukimura: Well, I am very glad that you have stepped forward, and we will feel very good to have you on the Board there.

Mr. Shiraishi: Thank you. I appreciate that.

Mr. Rapozo: Thank you for being here and agreeing to serve on another Commission. I have to ask you the question that we ask many applicants as far as conflicts because I know that you were an Attorney. In your work do you represent clients that would be in front of the Water Department? If you do, what percentage of the time? We just had an issue with the Fire Commission, where one (1) of the Commissioners had to step down.

Mr. Shiraishi: I do not do development work. I did appear before the Planning Commission on behalf of a private landowner whose property abutted the Kapaia tank reservoir. I also negotiated with the Water Department as far as what the neighbors' concerns were. They listened to the concerns and they developed the project as to address those concerns. But other than that, I do not regularly appear before the Planning Commission, nor the Department of Water.

Mr. Rapozo: I am just asking, because I do not know. So I just wanted to make sure that that was asked. The other concern I hear from the public is the constant – we do not have water for that area. Somebody wants to build a house on a vacant lot and that are told we have no water, we no more water. Then we find out that, I guess, that certain development projects get entitlements to water. So they basically kapu certain amounts of water and whether they develop or not, that water cannot be granted to anybody else. I do not know if you are familiar with that issue. I only raise it here so you can think about that. I am going to support your appointment and I am sure everyone will. But that is just one (1) of the constant complaints that I hear from the community. I am not talking about developers. I am talking about single lot owners that are being told by the Water Department that we do not have water.

Mr. Shiraishi: I have heard of those concerns also. I believe that there should be discussions as far as maybe possibly setting up deadlines or either you use your meter or...

Mr. Rapozo: Or lose it.

Mr. Shiraishi: Right, or lose it.

Mr. Rapozo: That is good to hear. Thank you, Sherman.

Mr. Shiraishi: You are welcome.

Mr. Hooser: I just had a few questions. I could not have a question looking at the audience. I see some Ag people there and I know agricultural water and keeping the rates down and availability. So do you have any thoughts on that? I will read a list and then can you respond. There is a project that the Water Department has been talking about in terms of drilling into the aquifer sideways. Basically to tap the water underneath Wai'ale'ale, which is going to be moving forward in terms of environmental review but might be controversial – it will be. If you have any thoughts that. Any thoughts on the rate structure as it exists now? I know it makes me nervous when we talk about – I know we have to pave the way. But there is a lot of people in the community that another \$10.00 to \$15.00 or \$50.00 a month really makes a difference in their lives. The role of the Water Department, the Board of Water regarding quality and preservation and control, versus just providing water? Do you have any thoughts on any of those subjects.

Mr. Shiraishi: Well, as far as the first topic regarding drilling sideways. I am not technically advanced enough to know about that. As far as rates, I have discussed rates with friends and members of the community and it is a hot topic. My feeling is that if we are going to maintain and possibly improve

the infrastructure, that we may have to raise the rates. Then I got a lot of feedback on that. My mom is on a fixed income and all of that. How is that going to affect her? So looking at from my point of view, I guess I am fortunate. I have a job and my wife pays the bills and all that. I assume sometimes during the summer she tells me I am using too much water. But I think that rates may have to be raised and the question is how do we allocate the rates among the public? I understand there are retired people on fixed incomes and that any rate increase would possibly adversely affect them. So I would keep that in mind. I do not know further discussions would have to be held as far as how to keep it fair and yet have everyone pay their fair share. What was your third topic, I am sorry?

Mr. Hooser: Well it is a constant – sometimes I want to say battle between agricultural and urban water and keeping the price low, potable water versus other kinds of water for agricultural uses. Do you have any thoughts?

Mr. Shiraishi: I do. I think we should support Ag on Kaua'i. I would support having a separate rate structure for Ag use.

Mr. Kagawa: I just wanted to thank you for wanting to serve again. A lot of times I think it is common that when a person such as you serves the five (5), six (6) years, a lot of times they say that they are done and tired of serving. But I want to thank you. It seems like Councilwoman Yukimura asked a lot of questions that I had in mind about your thoughts. I think you are right on target. The rates and how we are going to keep up with our infrastructure. I think are the main two (2) issues with the Water Department. Again, thanks for – a lot of times you help me with a lot of wise advice. We have been friends for a while and I want to thank you. I know that you are going to do a great job.

Mr. Shiraishi: Thank you. One (1) thing about serving on the Board and Commissions. When I was on the Charter Review Commission it involved a lot of work. I never missed a meeting, I did all of my reading. But one (1) thing that was really helpful was that the staff prepared all of the agendas, the reading documents and they were really on top of it. So it made serving on the Board a lot easier and I anticipate that is going to be the same with the Water Board.

Mr. Bynum: Mr. Shiraishi, I really appreciate your service to the County. I am sure you will be a fine member of the Water Board. There are a lot of complex issues at Water. Mr. Craddick, I think was a real asset to the County and I learned a lot from him. I am just going to share a couple of thoughts and bring up an issue that has not been brought up yet here today. I may not have it all right, but it is my impression that a lot of issues that the Water Board really had to do is how much weight is carried by current rate payers and how much is carried by new development? There are hook up fees and I know in the history of the Water Board, consultants have come and suggested increases of the hook up fees, pretty substantial increases and those have not been passed. The recommendations have not been passed either by the Water Board or the Council in the past. The issue really is you have to pay a hook up fee and it is quite substantial, but the idea is that you are helping to – you are getting access to an infrastructure to provide water from now on. You know, when those fees do not really carry the weight then in essence, rate-payers are subsidizing new development. So a lot of these issues come down to do these policies favor current

rate payers and keep rates down or do current rate payers subsidize things that maybe should be – the weight should be carried more by new subscribers? You know, I am sure this history that sometimes people want to do a development and there is no capacity. So I think part of that is because we never set these hook up rates high enough to create the capacity in advance, so a developer comes in and says if you want to do this development, you have to build us a water tank and a water main and it really becomes complex. Where in other communities, they are investing upfront in that infrastructure and you pay say a very large hook up fee. But what you get to that is access to a whole sophisticated infrastructure to deliver water. So I ask you to look at those issues really closely. There are issues that I think are unresolved about the ownership of the Water Treatment Plant in Līhu'e. Some of those decisions did not favor the rate payers in my view. So they are important and complex issues about who pays what portion of the burden for us to have a water infrastructure. I do not need you to comment on those things other to ask if you are aware of the issues of hook up fees, correct?

Mr. Shiraishi: I am aware of those issues. I know it is going to be an ongoing discussion. I have got two (2) kids. I would love for them to come back and live on Kaua'i. The problem is affordable housing, the availability of water and all of that. Investment will have to be made to improve or develop these water sources. The money has to come from somewhere, either from the developers themselves or from the existing rate payers. But I do not know the answer to that right off. But I understand that it is an issue.

Mr. Bynum: Like I said, the general thing is who is paying for this and who should? Personally, I am uncomfortable with current rate payers subsidizing new development. When I look at that history, consultants are saying this is standard practice, it is called user pay. Then repeatedly, either the Council or Water Board has not followed those recommendations. Good luck on the Water Board, it is a really important place and I am very happy that your name was brought forward.

Chair Furfaro: I would like to say I am very pleased your name was brought up and I will be supporting your appointment. I want to put some things on the radar screen, so we are real clear. The Water Department has some challenges. Despite what we just heard about private funding, we have got other situations in the County. For example, the Princeville Water System of which I was a member and at one (1) time I was the Secretary Treasurer, we provide the backup water for the County in Hanalei, Anini and Kalihiwai because the Water Department does not have the clout to basically make those improvements. So there is this possibility of leveraging some support and backup as redundancy for these communities. Some of those things are true as well in the Po'ipū area. But that being said, I just wanted to say for me, we have a situation where the Water Board does not have enough rate payers to have the kind of financial clout to fund those CIP projects. So it is the Council that agrees. We leveraged a \$60 million loan based on the business plan that Ernie Lau put together many years ago which has allowed us to approach these deferred improvements and repair and maintenance items under Mr. Craddick who is doing a fine job. But we need to coordinate something things a little bit better. For example, a year ago the Water Department used a completely different Auditor than the County used. But we cannot complete our audit until we are all in line with the same reports to tie it together. So there is room for improvement there. We have got another big item coming up here in the Ag community. I think we are getting close to identifying the

completion for submittal on the important Ag lands. But Ag lands are only Ag lands if you have got water. I think you folks need to be involved with this important Ag lands piece, somehow at the Planning Commission. I look at someone like yourself, and I say, you know, here is a gentleman that is going to bring a lot of talent to this Board. You understand those pieces with ratepayers. There is the operating costs of water, and then there is the CIP leverage which you can use the County for that, because we have a good bond rating. And that is what we did. But we have got to make sure that we keep the clarity in that, you know? There are operating costs and there is CIP improvements of which we need to be part of. I think that we are very fortunate that you stepped forward sir and I will be supporting your appointment later today.

Ms. Yukimura: I wanted to thank you for bringing up the Boards and Commissions staff and infrastructure support for your Charter Commission. That was a Charter amendment that I think we passed in 2006 to create this Office of Boards and Commissions. It did cost money, as often Charter amendments do. But the payback is that our Commissions, which do very important work, have the support that is needed to do their work. So thank you for bringing that to our awareness because it was a way to improve County services and we really appreciate how it is ably led by Paula Morikami. Thank you, Paula. The other thing that I wanted to – because this has been a really educational discussion today. The other thing about the facilities reserve charge, which does pay for the cost of accessing a system. It is the design of the system and that is where the issue of smart growth comes in. If it is a compact development around towns and it is not spread out in rural development, the per capita cost is much less. The whole system cost is much less, both in development and maintenance. So the land use aspect and how we actually manage our important Ag lands, they are all play a part in what the cost of the system is and then how it is translated to the facilities reserve charge. So many connections and things to think about. But bottom line is that we are thankful that you are stepping forward because we really need thoughtful, well informed people in our Boards and Commissions.

Chair Furfaro: Any other members before I close this interview? On the mention of staff, I agree, I would put the Council staff up there as well. We are all very fortunate with the staff that we have in this County. The Council staff, as well as Boards and Commissions. Those people work hard and are second to none. Again, I will be supporting your appointment today, and Clerk, we will be voting on that later today, am I correct?

RICKY WATANABE, County Clerk: Yes.

Chair Furfaro: Thank you very much for stepping forward.

There being no objections, the Council recessed at 9:18 a.m.

There being no objections, the meeting was called back to order at 9:50 a.m., and proceeded as follows:

Chair Furfaro: I would like to find out if there is any public testimony.

There being no objections, the rules were suspended to take public testimony.

GLENN MICKENS: Just one (1) question. I asked this to Chairman. Several years ago Mr. Sleppy or Slep was here, I asked him the same question I asked Sherman. The Water Department does not have any set aside to take care of broken lines etc., etc. I asked that question and he said that he did not – if I remember correctly because it has been four (4) or five (5) years ago at least, maybe more. All he said was that it was putting that money into something where it could be used better. However, when I asked the same question to Sherman, he said that is a good question. He said rather than raising the rates, skyrocketing the people's water rates, because we have got to go and replace all of these things we would have had a set aside, like other businesses like the hotel best of business and everything has to have set asides obviously to take care of broken things and stuff. But you have money there available. Anyway Sherman did say that he thought that it was a good question. He was going to do it. But I just thought that it was a question that should be answered. Why we do not do this is because all the lines on this island are pretty old. Breaks one (1) place and it is going to break another place. You are going to be replacing these things. Rather than have the people have to pay for it in one (1) lump sum by skyrocketing water rates, you would have had some money to cushion things. I appreciate Sherman's wanting to take on this responsibility. Maybe he is asking for something that he does not want. I think he will do a good job. Thank you, Jay.

There being no further testimony, the meeting was called back to order.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 9:52 a.m.

Respectfully submitted,



RICKY WATANABE
County Clerk

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